

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

PHILLIP BURTON HAUSKEN,  
Plaintiff,

v.

D. LEWIS, JOYCE MORRELL,  
Defendants.

CASE NO. C12-5882 BHS-JRC

ORDER DENYING PLAINTIFF'S  
MOTIONS


The District Court has referred this 42 U.S.C. § 1983 civil rights action to United States Magistrate Judge J. Richard Creatura. The Court's authority for the referral is 28 U.S.C. § 636(b)(1)(A) and (B), and Magistrate Judge Rules MJR3 and MJR4.

Plaintiff has filed a motion for an extension of a March, 2014 trial date that does not exist (Dkt. 52). The Court denies the motion because there is no trial date set in this action.

Plaintiff has also filed two motions for appointment of counsel (Dkt. 54 and 59). Now that the Ninth Circuit has dismissed plaintiff's appeal, (Dkt. 61) and the District Court has addressed a pending Report and Recommendation and Motion for Reconsideration, (Dkt. 60, and 64), plaintiff's motions are ripe for review.

1       There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983.  
2 Although the Court can request counsel to represent a party, 28 U.S.C. § 1915(e)(1), it will do so  
3 only in exceptional circumstances. *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986);  
4 *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984). A finding of exceptional  
5 circumstances requires the Court to evaluate both the likelihood of success on the merits and the  
6 ability of plaintiff to articulate his claims pro se in light of the complexity of the legal issues  
7 involved. *Wilborn*, 789 F.2d at 1331. Plaintiff has articulated a claim for injunctive relief related  
8 to defendants taking fifty-cents a month from his prison trust account for cable television.  
9 Plaintiff alleges that he is in a unit of the prison that does not have in-cell cable television. Thus,  
10 plaintiff's claim has been articulated and is before the Court. Because plaintiff is able to  
11 articulate his claim and because there are no other exceptional circumstances, plaintiff's motions  
12 for appointment of counsel are DENIED. (Dkts. 54 and 59).

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14       Dated this 17<sup>th</sup> day of June, 2014.

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17       J. Richard Creatura  
18       United States Magistrate Judge  
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